

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BENJAMIN OSHEA CALHOUN,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

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CIVIL ACTION H-12-3044

ORDER

Pending before the court is defendant's motion to dismiss, or alternatively for summary judgment. Dkt. 21. Upon review of the complaint, the motion, the plaintiff's objections—which the court construes as a response to the motion, and the applicable law, the motion is GRANTED. Plaintiff's claim is DISMISSED.


Plaintiff Benjamin Oshea Calhoun filed suit for declaratory judgment and injunctive relief, stating that the defendant Federal Bureau of Investigation had failed to respond timely to his request for information pursuant to the Free of Information Act. Defendant now moves the court for dismissal because it argues that plaintiff failed to exhaust his administrative remedies, and because the case is now moot.

It seems likely that plaintiff failed to exhaust his administrative remedies before filing suit. *See* Dkt. 21, Ex. D. However, the case must be dismissed because it is moot—there no longer remains a viable case or controversy. “Mootness applies when intervening circumstances render the court no longer capable of providing meaningful relief to the plaintiff.” *Cntr for Biological Diversity, Inc. v. BP Am. Prod. Co.*, ___ F.3d ___, 2013 WL 104928 (5th Cir. 2013). Defendant claims that it has now produced all documents responsive to plaintiff's request that are allowable

by defendant's procedure. Dkt. 21. While plaintiff deplores the tardiness of the defendant's response and production, he does not deny that he has received the documents. Accordingly, plaintiff's suit for injunctive relief compelling defendant to produce documents is DISMISSED AS MOOT. All pending motions are likewise DENIED AS MOOT.

It is so ORDERED.

Signed at Houston, Texas on January 30, 2013.



Gray H. Miller
United States District Judge